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December 3, 2009

BY HAND

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2009 DEC -4 AM 10:56  
OFFICE OF GENERAL  
COUNSEL

Re: MUR 6215

Dear Mr. Jordan:

We are writing this letter on behalf of Friends for Harry Reid (the "Committee") and Claude Zobell, as treasurer, (collectively referred to as the "Respondents") in response to the Complaint filed in the above-referenced matter by Randy Spitzmesser (the "Complainant"). For the reasons set forth below, the Complaint should be immediately dismissed.

While the Complaint alleges a violation of federal election law on the part of Tate Snyder Kimsey and its principals, the Complaint fails to allege any violation on the part of the Respondents. Pursuant to 11 C.F.R. § 111.4(d)(1), a complaint "should clearly identify as a respondent each person or entity who is alleged to have committed a violation." Here, the Complaint does not identify either the Committee or Mr. Zobell as a respondent; nor does the Complaint allege that either the Committee or Mr. Zobell has committed a violation. Further, the Complaint asserts no facts that give rise to a reason to believe that Respondents have violated federal election law. On the contrary, Respondents have not violated federal election law and have acted in full compliance with the Commission's requirements at all times.

The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would "describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. §§ 111.4(a), (d). Unwarranted legal conclusions from

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asserted facts or mere speculation will not be accepted as true, and provide no independent basis for investigation. *See* Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons, MUR 4960 (Dec. 21, 2001).

As detailed below, because the Complaint contains no facts to support an allegation that Respondents have violated the Federal Election Campaign Act of 1971 (the "Act") or Commission regulations, the Complaint must be dismissed.

*First*, the Complaint describes contributions received by the Committee in connection with a fundraiser organized by Windom Kimsey and William Snyder, principals at Tate Snyder Kimsey, on February 17, 2009. Specifically, the Complaint alleges that the Complainant was reimbursed by Tate Snyder Kimsey for a contribution that he made to the Committee in February 2009.

The Act prohibits candidates and committees from "[k]nowingly accept[ing] a contribution made by one person in the name of another." *See* U.S.C. § 441f, 11 C.F.R. § 110.4(b)(iv). Here, the Complaint does not contain facts alleging that Respondents had any knowledge of the alleged reimbursement by Tate Snyder Kimsey of its employees for contributions to the Committee. In fact, the Committee had no such knowledge. If the Committee had reason to believe that any contributions received were not legally and properly given, the Committee would not have accepted them. Upon receipt of this Complaint, the Committee disgorged to the United States Treasury an amount equal to the contribution received by the Committee from the Complainant.

Pursuant to its usual fundraising procedures, the contribution form prepared by the Committee in connection with this event stated as follows: "All contributions by individuals must be made from personal funds and may not be reimbursed or paid by any other person." *See* Exhibit A. In addition, upon receipt of this Complaint, the Committee sent letters requesting confirmation of personal funds to each individual who made a contribution to the Committee in connection with the February 17 event. Contributors have been asked to return to the Committee a signed statement confirming that the contribution was made voluntarily using personal funds and that the contribution was not reimbursed by any person or entity. *See* Exhibit B. In the event that the Committee receives notice that a contribution was reimbursed or not made with the contributor's personal funds, it will promptly disgorge to the United States Treasury an amount equal to the prohibited contribution. Consistent with the Act and Commission regulations, the Committee has not – and will not – knowingly accept contributions that are made by one person in the name of another.

*Second*, the Complaint alleges that the employer information listed for two contributions received by the Committee in February 2009 is inaccurate. Contrary to what is listed in the Committee's 2009 April Quarterly report, the Complaint alleges that Maizie Pusich and Dwayne Miller were not employed by Tate Snyder Kimsey. The Complaint does not contain any facts

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alleging that the Committee may have knowingly reported inaccurate information with respect to any of its contributions.

The Act and Commission regulations require political committees to use their "best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in an election cycle." *See* 2 U.S.C. § 431(i); 11 C.F.R. § 104.7. Consistent with Commission regulations, the Committee included the "best efforts" disclaimer on the contribution form prepared by the Committee in connection with the February 17 fundraising event. *See* Exhibit A. In addition, the Committee has asked each individual who made a contribution to the Committee in connection with this event to confirm his or her employer and occupation in writing. *See* Exhibit B. If the Committee receives confirmation of employment that is inconsistent with what has been disclosed in its reports to the Commission, the Committee will file the necessary amendments to its reports.

In sum, the Complaint does not allege any facts that would describe a violation of federal election law on the part of Respondents. Pursuant to 11 C.F.R. § 111.4(d), Respondents respectfully request that the Complaint be immediately dismissed.

Very truly yours,

  
Marc Erik Elias  
Kate Sawyer Keane  
Counsel to Friends for Harry Reid and Claude Zobell, Treasurer

# EXHIBIT A

**Tate Snyder Luncheon for Senator Harry Reid**

\_\_\_\_\_ Yes, I would like to attend with a \$\_\_\_\_\_ contribution.

\_\_\_\_\_ Sorry, I am unable to attend the event, but enclosed is my contribution of  
\$\_\_\_\_\_.

Federal law requires us to use our best efforts to collect and report the name and mailing address, occupation and name of employer of individuals who make contributions. Corporate contributions and contributions from non-U.S. citizens who are not lawfully admitted for permanent residence are prohibited. All contributions by individuals must be made from personal funds and may not be reimbursed or paid by any other person.

Name \_\_\_\_\_

Employer \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

City, State ZIP \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

Guest(s) \_\_\_\_\_

**Make checks payable to "Friends for Harry Reid"  
and mail to:  
426 C Street, NE Rear Building Washington, DC 20002**

**OR FAX THIS FORM TO: Attn: Jake Perry at 202-544-2572**

**Please bill \$\_\_\_\_\_ to my: \_\_\_ Visa \_\_\_ Mastercard \_\_\_ AMEX**

**If you using American Express please include the 4 digit code above the credit card number \_\_\_\_\_**

**Account # \_\_\_\_\_ Exp. \_\_\_\_\_**

**Signature \_\_\_\_\_**

**This personal, not corporate, card belongs to \_\_\_\_\_**

**Contributions or gifts to Friends for Harry Reid are not tax deductible.**

**Paid for and authorized by Friends for Harry Reid**

## **EXHIBIT B**

14-00000-1

# FRIENDS FOR HARRY REID

## CONTRIBUTOR PERSONAL FUNDS FORM

Donor  
Address  
Address

This confirms that my contribution of \$XXXX.00 to Friends for Harry Reid on XX/XX/2009, check #XXX or Credit Card Last 4 Numbers XXX was made voluntarily using my own personal funds. I further confirm that my contribution was not reimbursed to me by any person or entity.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Occupation: \_\_\_\_\_

Employer: \_\_\_\_\_

Please mail or fax it to (202) 544-2572

426 C Street, NE • Rear Building • Washington, DC 20002 • p: 202.544.5832 • f: 202.544.2572  
P.O. Box 19183 • Las Vegas, Nevada 89119-1183 • p: 702.699.7343

Contributions or gifts to Friends for Harry Reid are not deductible for federal income tax purposes.

Paid for and authorized by Friends for Harry Reid